ST 00-0124-GIL 06/30/2000 LEASING

In Illinois, lessors of tangible personal property under a true lease, except for automobiles leased for terms of one year or less, are considered to be the end users of the property to be leased. See 86 Ill. Adm. Code Sections 130.220 and 130.2010. (This is a GIL).

June 30, 2000

Dear Xxxxx:

This letter is in response to your letter received March 14, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at http://www.revenue.state.il.us/legalinformation/regs/part1200.

In your letter, you have stated and made inquiry as follows:

In order to continue in full compliance with the laws and regulations regarding sales and use tax within the State of Illinois, BUSINESS respectfully requests that the Department of Revenue provide a written response as to the taxability of a number of scenarios and transactions as it relates to one of our clients. Our client operates full-service and high volume copying establishments within the state of Illinois.

The following are the scenarios and related questions.

Scenario 1: Manufacturing Equipment

Our client maintains production equipment in every store. All production equipment in the full-service area is used for high volume copying and manufacturing of an end product from beginning to end. This production equipment includes high to medium volume black & white and color copiers, oversized enlargers (creates large posters and banners), one hour photo processing machines, and ancillary equipment (binders, cutters, paper drills, and other miscellaneous equipment). The employees in the stores operate all of the production equipment in this area and no customers have access to this area. Our Client has analyzed sales of ancillary services and found that approximately 94% of the ancillary services are provided in conjunction with the use of the production equipment.

Our client also maintains a self-service area. The production equipment in this area is operated by the customer and the employee. This equipment only includes black & white and color copiers.

Questions:

1. Is our client entitled to a manufacturing exemption for machinery and equipment used in the full-service area? Are there special exemptions that apply to new stores/locations? If classified as exempt, what supporting documentation needs to be provided to vendors of the manufacturing equipment used in the full-service area?

2. Is our client entitled to the manufacturing exemption for copiers used in the self-serve area? Are there special exemptions that apply to new stores/locations? If classified as exempt, what supporting documentation needs to be provided to vendors of the manufacturing equipment used in the self-service area?

3. If sales/use tax was paid directly to the vendor on qualifying manufacturing equipment, how does our client claim a refund of tax paid to your state?

4. Does the taxability change if the equipment is leased under a capital or operating lease? If the answer is yes, please explain and provide the corresponding law sections.

5. Are separately stated installation charges taxable? If the answer is yes, please provide a detailed response with corresponding law sections.

6. What is the taxability of developer and fuser agent chemicals used in Xerox copy machines? Does it matter if the chemicals are used in the full-service equipment versus the self-service equipment?

Scenario 2: Capital Versus Operating Leases

Our client leases machinery and equipment used in production and for their own use. The terms of the leases equal or exceed a 36 month period of time. Our client capitalizes capital leases, in accordance with GAAP. All operating leases are expensed.

Questions:

1. Is the lessor or lessee ultimately responsible for sales/use tax? Are there any exceptions to the law or internal guidelines that would hold the lessor ultimately liable for the tax?

2. Does the taxability change if the lease is a capital lease versus an operating lease? Is sales/use tax due at lease inception or due based upon lease payments?

<u>Scenario 3: Improvements to Real Property</u>

Our client contracts with a number of in-state and out-of-state contractors to perform improvements to real property in their stores, including remodeling existing locations and building out newly leased facilities. Below is a list of improvements that are physically attached to the real property

- ♦ Carpet
- ♦ Cabinets
- ♦ Counter tops
- ♦ Signs attached outside the building
- ♦ Tables attached to real property
- ♦ Wiring for telephones and internet connections
- ♦ Lighting retrofits throughout the store (energy efficient lighting)
- ♦ Parking lot/sidewalk repairs
- ♦ Heating and air conditioning
- ♦ Roof repair
- ♦ Drywall repair
- ♦ Fabrication of interior walls
- ♦ Plumbing for restrooms
- ♦ Window tinting (film), not removed
- ♦ Window treatment (blinds, shades)
- ♦ Electrical outlets for production equipment

Questions:

1. Who is ultimately responsible for the sales/use tax?

2. Does the taxability change if the contract is lump sum or time and materials? If the answer is yes, please provide a detailed response with corresponding law sections.

3. **For In-State Contractors:** If an in-state contractor is determined to be the retailer of materials used for improvements to real property, and does not separately charge sales tax on the sales invoices, is our client responsible for accruing the use tax?

4. **For Out-of-State Contractors:** If an out-of-state contractor performs improvements to real property and does not separately state sales/use tax on the sales invoices, is our client responsible for accruing the use tax? If yes, what is the taxable measure? Does it matter if the contractor is or is not permatized (holding a seller's permit) or licensed in the state of Illinois?

5. Does the responsibility for sales/use tax change if a subcontractor bills our client directly? If the answer is yes, please provide a detailed response with corresponding law sections.

Scenario 4: Software

Our client purchases software and software licenses every year. The software is received outside of your state one of three ways:

A) In the form of tangible personal property (diskette or CD).
B) Electronically via the internet or modem.
C) Received via a load and leave arrangement in which the vendor will travel to our client and load the software onto its computer system. (Our client does not obtain title or possession of tangible personal property at any time.)

Our client creates a master image CD of the software and then sends this software CD directly to the stores in your state or sends the software CD to a third party in Arizona to be loaded onto computer systems that will be directly to the store locations in your state.

Questions:

1. Are the software CDs or software licenses taxable in your state based upon the above facts? If the answer is yes, please provide a detailed response for each of the described methods of delivery.

2. Are software updates taxable if received and sent into your state in the same matter as discussed above? If the answer is yes, please provide a detailed response for each of the described methods of delivery.

3. Our client pays a non-refundable annual fee for ‘software insurance’. This fee entitles our client to software updates if there are any within the year although our client may or may not choose to utilize the update. Is this software insurance fee taxable whether or not an update is received?

Scenario 5: In-Store Computer Rental Time

Our client maintains computers for customer in-store rental. The rental charge is based upon an hourly charge prorated by the actual number of minutes the customer uses the computers. The customer cannot add, delete, or modify any of the software applications on the computers. The computers can also be used to access the internet. No out of store rentals are allowed.

Questions:

1. Is sales tax due on the computer rental charge? If the answer is yes, please provide a detailed response with corresponding law sections.

2. If the computer rentals are determined to be taxable, can the computer equipment be purchased for resale? Can our client file a claim for refund? What is the procedure to file a claim for refund?

Scenario 6: Document Creation Services

Our client offers document creation services to its customers. These services are separately stated on the sales invoice and include, but are not limited to, the following:

- Resumes with or without graphics (one paper copy is given to the customer)
- Resumes with or without graphics (electronic file on diskette is given to the customer)
- Newsletter with or without graphics
- Flyers with or without graphics
- Company logos
- Business cards

Questions

1. Is sales tax due on any of the above document creation services? If the answer is yes, please provide a detailed response with corresponding law sections for each of the taxable document creation services.

Scenario 7: Telecommunication Services & Equipment

Customers in the store can utilize the client's telecommunication equipment that includes fax machines and video conferencing equipment.

Questions

1. Are the charges for sending and receiving faxes subject to sales tax or telecommunications tax? Does the tax apply to faxes originating from out-of-state locations, or being sent to out-of-state destinations?

2. Are charges for intra-state and interstate video conferencing services subject to sales tax or telecommunications tax? If the answer is yes, please provide a detailed response with corresponding law sections.

3. Is there any exemption for telecommunication equipment? If the answer is yes, please provide a detailed response with corresponding law sections.

Scenario 8: Internet Website

Our client offers an informational and on-line document creations website to its customers. A customer can create a document on-line or upload an electronic file directly to the website. The customer can specify the format, type and color of paper, the quantity of the order, any cutting and binding that needs to be done, and any other finishing process to complete the order. The finished order can be shipped anywhere in the United States or the customer can designate from one of our client's locations to pick up the finished product.

Questions:

1. Does the shipping or delivery point determine the tax rate? Does it matter if the shipping point originated from an out-of-state location?

Scenario 9: Resale/Exemption Supporting Documentation

Our client sells to a wide range of customers, including individual consumers, a variety of businesses and corporations, governmental agencies, and exempt nonprofit organizations. The printed material being sold can be used in a variety of ways depending on the customer. Therefore, it may not be clear if the printed material is being purchased for resale or for the customer's own use.

Our client's employees are instructed to question **good faith** by making sure an item purchased exempt from tax is either purchased for resale (not for the customer's own use) or sold to an exempt organization. At times a customer is persistent that the item being purchased is for resale or being used by an exempt entity. The employees will require the customer to complete an exemption or resale certificate in accordance with the regulation. As a retailer whose market depends on repeat business, our client cannot debate the taxability of a customer who is claiming exempt status and who has the proper documentation.

Questions:

1. What documentation MUST be maintained by our client to relieve them of potential audit liabilities?

2. Do resale or exemption certificates have expiration dates? If the answer is yes, please provide a detailed response with corresponding law sections.

3. Can our client create it's own version of a resale/exemption certificate as long as it contains all of the required elements? What are the required elements?

4. In accepting resale/exemption certificates, what must our client do to establish good faith in order to relieve it of potential audit liability?

5. If our client later determines that a customer is taxable, can our client be held liable for previous transactions? Why?

Conclusion

Based on the foregoing scenarios, we respectfully request that the Illinois Department of Revenue issue guidance to us as to the taxability of each question as referred to each scenario described above.

We are unable to give you the ruling you request in the context of a General Information Letter. The following is general information regarding the topics you discussed in your letter.

Illinois taxes the retail sale and use of tangible personal property under two separate but related statutes. The Retailers' Occupation Tax Act imposes a tax on Illinois retailers measured by a percentage of their gross receipts from sales for use or consumption. 35 ILCS 120/1 et seq. The Use Tax Act imposes a tax on purchasers by taxing the use of tangible personal property purchased from retailers. 35 ILCS 105/1 et seq.

In Illinois, lessors of tangible personal property under a true lease, except for automobiles leased for terms of one year or less, are considered to be the end users of the property to be leased. See the enclosed copies of 86 Ill. Adm. Code Sections 130.220 and 130.2010. As the end users of tangible personal property located in Illinois, lessors incur Use Tax on the lessors' cost price of the property. Since lessors are considered the end users of the property and have paid the Use Tax, no Retailers' Occupation Tax is imposed upon the rental receipts and the lessees incur no Use Tax liability for the rental charges. In Illinois, a true lease generally has no buy out provision at the close of the lease. If a buy out provision does exist, it must be a fair market value buy out option in order to maintain the character of the true lease.

The alternative to a true lease is a conditional sale. In Illinois, a conditional sale is usually characterized by a nominal purchase option at the close of the lease term. This type of transaction is considered a conditional sale at the outset of the transaction making all receipts subject to Retailers' Occupation Tax. See Section 130.2010. In this situation, lessors/retailers may give Certificates of Resale to their suppliers for tangible personal property transferred subject to a conditional sales agreement. The lessors/retailers owe Retailers' Occupation Tax on any installment payments when they are received by the lessors/retailers. The lessees/purchasers owe corresponding Use Tax on the amount of the installment payments that are collected by the lessors/retailers.

As stated above, lessees do not incur any tax liability in a true lease situation. However, it is not unusual for true leases to contain contractual provisions stating that the lessees will reimburse the lessors for their tax costs. However, this is not a matter of Illinois tax law but of private agreement between lessors and lessees.

Please find enclosed a copy of 86 Ill. Adm. Code 130.2000 concerning Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers. Photographers are subject to Retailers' Occupation Tax on the photoprocessing component of their total service charge when they sell products of photoprocessing. Such products of photoprocessing include prints, photographic reproductions, and microfilm. In transactions in which products of photoprocessing are sold in conjunction with other services, if a charge for the photoprocessing component is not separately stated, tax is imposed on 50% of the entire selling price unless the sale is made by a professional photographer, in which case tax shall be imposed on 10% of the entire selling price. Please note that the sale of digital imaging and printing is not a sale of products of photoprocessing. Please refer, rather to the following discussion of Service Occupation Tax for the tax treatment of this type of service.

Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred incident to sales of service. For your general information we are enclosing a copy of 86 Ill. Adm. Code 140.101 regarding sales of service and Service Occupation Tax.

The purchase of tangible personal property that is transferred to service customers may result in either Service Occupation Tax liability or Use Tax liability for the servicemen, depending upon which tax base the servicemen choose to calculate their liability. Servicemen may calculate their tax base in one of four ways: (1) separately stated selling price; (2) 50% of the entire bill; (3) Service Occupation Tax on cost price if they are registered de minimis servicemen; or, (4) Use Tax on cost price if the servicemen are de minimis and are not otherwise required to be registered under the Retailers' Occupation Tax Act.

Using the first method, servicemen may separately state the selling price of each item transferred as a result of sales of service. The tax is based on the separately stated selling price of the tangible personal property transferred.

Under a second method, if servicemen do not wish to separately state the selling price of the tangible personal property transferred, those servicemen must use 50% of the entire bill to their service customers as the tax base. Both of the above stated methods provide that in no event may the tax base be less than the cost price of the tangible personal property transferred. Under these methods, servicemen may provide their suppliers with Certificates of Resale when purchasing the tangible personal property to be transferred as a part of the sales of service.

The third way servicemen may account for their tax liability only applies to de minimis servicemen who have either chosen to be registered or are required to be registered because they incur Retailers' Occupation Tax liability with respect to a portion of their business. Servicemen may qualify as de minimis if they determine that their annual aggregate cost price of tangible personal property transferred incident to sales of service is less than 35% of their annual gross receipts from service transactions (75% in the case of pharmacists and persons engaged in graphic arts production). See, 86 Ill. Adm. Code 140.101(f) enclosed. This class of registered de minimis servicemen is authorized to pay Service Occupation Tax (which includes local taxes) based upon the cost price of tangible personal property transferred incident to sales of service. They remit the tax to the Department by filing returns and do not pay tax to suppliers. They provide suppliers with Certificates of Resale for the property transferred to service customers

The final method of determining tax liability may be used by de minimis servicemen that are not otherwise required to be registered under the Retailers' Occupation Tax Act. Servicemen may qualify, as de minimis if they determine that their annual aggregate cost price of tangible personal property transferred incident to sales of service is less than 35% of their annual gross receipts from service transactions (75% in the case of pharmacists and persons engaged in graphic arts production). Such de minimis servicemen may pay Use Tax to their suppliers or may self-assess and remit Use Tax to the Department when making purchases from unregistered out-of-State suppliers. Those servicemen are not authorized to collect “tax” from their service customers, nor are they liable for Service Occupation Tax.

Machinery and equipment that are used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease are exempt from Retailers’ Occupation Tax. See the enclosed copy of 86 Ill. Adm. Code 130.330. The manufacturing process is the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, processing, fabricating, or refining that changes some existing material or materials into a material with a different form, use, or name. These changes must result from the process in question and be substantial and significant. The manufacturing machinery and equipment exemption also extends to repair and replacement parts as long as the parts are incorporated into machinery and equipment that are exempt under the regulation. Supplies, such as consumables, do not qualify for the exemption. See subsection 130.330(c)(3). Manufacturing includes photoprocessing if the products of photoprocessing are sold.

For your information, we have enclosed a copy of 86 Ill. Adm. Code 130.325, which are the Department’s regulations for the Graphic Arts Machinery and Equipment Exemption. The Graphic Arts Machinery and Equipment Exemption extends to machinery and equipment that is used primarily in graphic arts production.

Prior to recent legislation, “graphic arts production” meant printing by one or more of the common processes or graphic arts production services as those processes and services are defined in Major Group 27 of the U.S. Standard Industrial Classification Manual.

However, Public Act 91-541 was signed into law on August 13, 1999. This measure amended the definition of “graphic arts production” to mean “printing, including ink jet printing, by one or more of the processes described in Groups 323110 through 323122 of Subsector 323, Groups 511110 through 511199 of Subsector 511, and Group 512230 of Subsector 512 of the North American Industry Classification System published by the U.S. Office of Management and Budget, 1997 edition. Graphic arts production does not include (i) the transfer of images onto paper or other tangible personal property by means of photocopying or (ii) final printed products in electronic or audio form, including the production of software or audio-books.”

Please find enclosed copies of 86 Ill. Adm. Code 130.1940 and 130.2075 regarding the tax liabilities of contractors in Illinois. The term “construction contractors” includes general contractors, subcontractors, and specialized contractors such as landscape contractors. The term “contractor” means any person or persons who are engaged in the occupation of entering into and performing construction contracts for owners. In Illinois, construction contractors are deemed end users of tangible personal property purchased for incorporation into real property.

As end users of such tangible personal property, contractors incur Use Tax liability for such purchases based upon the cost price of the tangible personal property. Therefore, any tangible personal property that general contractors or subcontractors purchase that will be permanently affixed to or incorporated into real property in this State will be subject to Use Tax. If contractors did not pay the Use Tax liability to their suppliers, contractors must self-assess their Use Tax liability and pay it directly to the Department.

Contractors incur Retailers’ Occupation Tax upon the sale of items that are not permanently affixed to real estate. However, please note that Section 1 of the Retailers' Occupation Tax Act states that "[c]onstruction contracts for the improvement of real estate consisting of video, security, and all telecommunication systems do not constitute engaging in a business of selling tangible personal property at retail within the meaning of this Act if they are sold at one specified contract price". Consequently, even if some items used in such contracts are not permanently affixed, the liability incurred by the contractor is a Use Tax liability if the provisions of this section are met.

Generally, sales of "canned" computer software are taxable retail sales in Illinois regardless of whether it is transmitted in an electronic format. Sales of computer software over the Internet are subject to taxation. See the enclosed copy of 86 Ill. Adm. Code 130.1935. However, if the computer software consists of custom computer programs, then the sales of such software may not be taxable retail sales. See Section 130.1935(c).

Custom computer programs or software are prepared to the special order of the customer. The selection of pre-written or canned programs assembled by vendors into software packages does not constitute custom software unless real and substantial changes are made to the programs or creation of program interfacing logic. See Section 130.1935(c)(3). If transactions for the licensing of computer software meet all of the criteria provided in Section 130.1935(a)(1), neither the transfer of the software or the subsequent software updates will be subject to Retailers' Occupation Tax.

A license of software is not a taxable retail sale if:

A) it is evidenced by a written agreement signed by the licensor and the customer;

B) it restricts the customer's duplication and use of the software;

C) it prohibits the customer from licensing, sublicensing or transferring the software to a third party (except to a related party);

D) the vendor will provide another copy at minimal or no charge if the customer loses or damages the software; and

E) the customer must destroy or return all copies of the software to the vendor at the end of the license period.

As stated above, licenses of computer software are not taxable if they meet all of the criteria listed in Section 130.1935(a)(1). However, item (D) of that part requires the license to contain a provision requiring the vendor to provide another copy at minimal or no charge if the customer loses or damages the software. The Department has deemed software license agreements to have met this criteria if the agreements do not contain a provision about the loss or damage of the software, but the vendors' records reflect that they have a policy of providing copies of software at minimal or no cost if the customers lose or destroy the software.

Item (E) of this part also requires a license to require a customer to destroy or return all copies of the software to the vendor at the end of the license period. The Department has also deemed perpetual license agreements to qualify for this criterion even though no provision is included in the agreements that requires the return or the destruction of the software.

The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. See 86 Ill. Adm. Code 495, enclosed.

Pursuant to Section 495.100(a), "gross charge" means the amount paid for the act or privilege of originating or receiving telecommunications in this State and for all services and equipment provided in connection therewith by a retailer valued in money, whether paid in money or otherwise, including cash credits, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of material used, labor or service cost or any other expense whatsoever.

Please note that faxes are considered telecommunications subject to tax.

Effective January 1, 1998, the Telecommunications Municipal Infrastructure Maintenance Fee Act (Act) (35 ILCS 635/1 et seq.) provides for the imposition of various fees upon telecommunications retailers. Section 15 of the Act imposes a State infrastructure maintenance fee upon telecommunications retailers, as that term is defined in 35 ILCS 635/10, "equal to 0.5% of all gross charges charged by the telecommunications retailer to service addresses in this State for telecommunications, other than wireless telecommunications, originating or received in this State." (35 ILCS 635/15(b).)

Section 15 also provides for an optional infrastructure maintenance fee which telecommunications retailers may pay "with respect to the gross charges charged by the telecommunications retailer to service addresses in a particular municipality for telecommunications, other than wireless telecommunications, originating or received in the municipality...." (35 ILCS 635/15(c).) These fees are collected, enforced and administered by the Illinois Department of Revenue. (35 ILCS 635/25(b).)

Section 20 of the Act provides that municipalities may impose a municipal infrastructure maintenance fee upon telecommunications retailers. This fee is based upon gross charges charged by the telecommunications retailers to service addresses in the municipality for telecommunications originating or received in the municipality. This fee is collected, enforced, and administered by the municipality imposing the fee. (35 ILCS 635/25(c).)

Illinois municipalities are also authorized to impose a municipal telecommunications tax. (See 65 ILCS 5/8-11-17.) The tax is imposed on the act or privilege of originating in such municipality or receiving in such municipality intrastate or interstate telecommunications by a person at a rate not to exceed 5% of the gross charges for such telecommunications purchased at retail by such person. (See 65 ILCS 5/8-11-17(a)(1) and 65 ILCS 5/8-11-17(a)(2).) This tax may only be imposed if the municipality does not have in effect an occupation tax imposed on persons engaged in the business of transmitting messages by means of electricity as authorized by Section 8-11-2 (65 ILCS 5/8-11-2) of the Illinois Municipal Code. The municipality imposing the tax provides for its administration and enforcement, not the Illinois Department of Revenue. Therefore, questions regarding this tax should be addressed to the individual municipalities imposing it. There is no equivalent statute for county governments.

In addition, the Emergency Telephone System Act provides that "[t]he corporate authorities of any municipality or any county may, subject to the limitations of subsections (c), (d), and (h), and in addition to any tax levied pursuant to Section 8-11-2 of the Illinois Municipal Code, impose a monthly surcharge on billed subscribers of network connection provided by telecommunication carriers engaged in the business of transmitting messages by means of electricity originating within the corporate limits of the municipality or county imposing the surcharge at a rate per network connection determined in accordance with subsection (c)." (See 50 ILCS 750/15.3(a) and (c).) "The surcharge authorized by this Section shall be collected from the subscriber by the telecommunications carrier providing the subscriber the network connection as a separately stated item on the subscriber's bill." (50 ILCS 750/15.3(f).) This surcharge is paid to the municipality, county or Joint Emergency Telephone System Board. (See 50 ILCS 750/15.3(g).) Questions regarding the surcharge should be addressed to the municipality or county imposing it.

Regarding jurisdiction issues and the imposition of local taxes in Illinois, see the enclosed copy of 86 Ill. Adm. Code 270.115 of the Home Rule Municipal Retailers' Occupation Tax. The Department looks to Section 270.115 as guidance in determining the situs of the retail sale for Retailers' Occupation Tax and Home Rule Municipal Retailers' Occupation Tax purposes. Local taxes are triggered when "selling" occurs in a jurisdiction imposing a tax. The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order or other contracting action in the making of the sales contract. Consequently, if a purchase order, which is an acceptance of the seller's complete and unconditional offer to sell is accepted in a jurisdiction that imposes a local tax, that tax will be incurred.

For Internet sales are taxed in the same manner as any other sale. The location of the acceptance of the purchase order or the location of the inventory determines the tax rate of the transaction.

In order to document sales for resale, retailers are obligated by Illinois to obtain valid Certificates of Resale from their customers. See the enclosed copy of 86 Ill. Adm. Code 130.1405. Certificates of Resale must contain the following items of information.

1. a statement from the purchaser that items are being purchased for resale;
2. seller's name and address;
3. purchaser's name and address;
4. a description of the items being purchased for resale;
5. purchaser's signature and date of signing;
6. purchaser's registration number with the Illinois Department of Revenue; purchaser's resale number issued by the Illinois Department of Revenue; or, a statement that the purchaser is an out-of-State purchaser who will sell only to purchasers located outside the State of Illinois.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.